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**FISCAL IMPACT STATEMENT**

**LS 7789**

**BILL NUMBER:** HB 1821

**NOTE PREPARED:** Feb 16, 2007

**BILL AMENDED:** Feb 15, 2007

**SUBJECT:** Licensure of Occupational Therapists.

**FIRST AUTHOR:** Rep. Klinker

**FIRST SPONSOR:**

**BILL STATUS:** 2<sup>nd</sup> Reading - 1<sup>st</sup> House

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) ***Criminal Background Checks:*** The bill provides that licensed home health agency and licensed personal services agency: (1) may request national criminal background checks; and (2) must require a limited criminal history).

***Licensure of Occupational Therapists:*** The bill requires the licensure of occupational therapists and occupational therapy assistants (current law requires certification).

***Physician or Chiropractor Referral:*** The bill provides that an occupational therapist may not provide certain services unless the patient has been referred by a physician or chiropractor.

***Rules:*** The bill requires the Occupational Therapy Committee to propose rules to the Medical Licensing Board (the Board) concerning the continuing competency requirements for the renewal of an occupational therapy license. The bill requires the Board to approve a nationally recognized examination for occupational therapy licensure and establish the passing score needed to obtain a license.

***Excluded Procedures and Services From Scope of Practice:*** The bill provides that an occupational therapist may not perform certain spinal or joint adjustment procedures. The bill provides that an occupational therapist may not provide certain services unless the patient has been referred by a physician or chiropractor.

***Temporary Licenses:*** The bill specifies when a temporary occupational therapy license expires.

**Effective Date:** July 1, 2007.

**Explanation of State Expenditures:** (Revised) **Criminal Background Checks:** Currently, the Indiana State Police (ISP) are responsible for conducting limited criminal history background checks for home health and personal services agencies. Under the bill, the ISP would be required to conduct a national criminal history background check. As proposed, the ISP would experience an indeterminable change in workload.

**Licensure of Occupational Therapists:** Licensing occupational therapists would present minimal impact to state expenditures, with respect to administration. The bill would allow active occupational therapist and assistant certifications to be grandfathered to licenses on July 1, 2007. The Professional Licensing Agency would not have to send pocket cards and wall licenses to grandfathered practitioners until the occupational therapist licensing renewal period beginning December 1, 2007. Applications (state form 43826) would have to be amended to reflect the change from certification to licensure. However, the current application is readily available online at the Professional Licensing Agency's website. Therefore, printing expense for new applications should be minimal.

**Rules:** If the Board required additional meetings to adopt the rules required by the bill, additional expenditures would be required to cover member per diem and travel expenses. The Board is scheduled to meet 11 times in 2007.

**Explanation of State Revenues:** (Revised) **Criminal Background Checks:** This bill requires home health, and personal services, agencies to obtain a national criminal history background check for an employee not more than three business days after the date an employee begins. Under current law, they are required to obtain a limited criminal history check.

The Indiana Office of Technology and the ISP report that 75% of persons obtain a limited criminal history check through the Internet (AccessIndiana), and the remaining 25% obtain the check in person or through the mail. Fees vary for limited criminal history background checks and are dependent on the method in which the information is obtained. In addition, home health agencies which are nonprofit organizations and have been in existence for at least ten years are exempt from paying limited criminal history background check fees. Revenue from fees collected is deposited into the state General Fund and the IOT Portal Fund (see table below). The IOT reports that the Portal Fund is used to maintain and modify AccessIndiana webpages.

Limited Criminal History Background Check Fees				
Type of Fee	Information Obtained Through	Amount of Fee	Amount of Fee Deposited into State General Fund	Amount of Fee Deposited into IOT Portal Fund
AccessIndiana (Subscriber)	AccessIndiana Website	\$15	\$7	\$8
AccessIndiana (Non-Subscriber)	AccessIndiana Website	\$16.32	\$7	\$9.32
Mail/In-Person	Mail; In-Person	\$7	\$7	\$0
Full Exemption	AccessIndiana Website; Mail; In-Person	\$0	\$0	\$0

National criminal history background checks cost a total of \$39, \$24 of which is given to the federal government; the remaining \$15 is deposited into the state General Fund.

*Fiscal Impact:* The number of persons employed by home health, and personal services, agencies is not known. In addition, the number of home health agencies which would be exempt from fees is not known.

As proposed, the state would likely experience an increase in revenue. Actual increases would be dependent on the type of limited criminal history check fee paid (would range between \$0 for certain home health agencies and \$16 for agencies/employees requesting the information online without an AccessIndiana subscription) by a home health, or personal services, for each employee and the amount of that fee which is deposited into the state General Fund, and the difference between that fee and the fee paid for a national criminal history check (\$15 of the fee would be deposited into the state General Fund).

*Note:* The Indiana State Department of Health (ISDH) reports that it currently is not licensing personal services agencies. The bill modifies the definition of qualified entity to include a licensed personal services agency. A qualified entity is able to contact the ISP to request a national criminal history background check. It is not known how this factor will influence the requirements of the bill. Personal services agencies may not be able to obtain national criminal history background checks for employees because they are not licensed.

*Background Information:* A Limited Criminal History Background Check means information with respect to any arrest or criminal charge, which must include: (1) a disposition; and (2) a photograph of the person who is the subject of the limited criminal history, if a photograph is available. The term includes information about any arrest or criminal charge that occurred less than one year before the date of a request even if no disposition has been entered. A limited criminal history background check is obtained through the Indiana State Police (ISP).

A National Criminal History Background Check means the criminal history record system maintained by the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification. A national criminal history background check is also obtained through the ISP.

*Licensure of Occupational Therapists:* The bill does not specify that existing fees for occupational therapist certification would be changed for licensing. Any fee changes that could result from this bill would be determined by rule. It is possible that continuing competency could initially reduce the number of license renewals. If fewer licenses are issued, then fee increases could be necessary to maintain current revenue levels.

*Background:* Current certification and renewal fees for occupational therapists are \$100. Renewals occur biennially. Over the FY 2002-2003 biennium approximately \$338,300 in revenue was collected from fees. During the FY 2004-2005 biennium approximately \$377,700 in fees were collected. FY 2006 fees totaled \$47,270.

The Professional Licensing Agency reports there were 2,543 occupational therapists and 896 occupational therapist assistants with active certifications as of December 2006. Bureau of Labor Statistics employment data indicates, as of May 2005, there were about 2,740 occupational therapists and assistants employed in Indiana.

*Temporary Licenses:* The bill would place the time limit on temporary licenses at 180 days. As of December 2006, there were 138 active occupational therapy temporary permits (including assistants).

***Excluded Procedures and Services From Scope of Practice:*** Practitioners violating this provision would be subject to a Class B misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class B misdemeanor is \$1,000. However, any additional revenue would likely be small.

**Explanation of Local Expenditures:** ***Excluded Procedures and Services From Scope of Practice:*** A Class B misdemeanor is punishable by up to 180 days in jail.

**Explanation of Local Revenues:** ***Excluded Procedures and Services From Scope of Practice:*** If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

**State Agencies Affected:** Medical Licensing Board, Occupational Therapist Committee; Indiana State Police; Indiana Office of Technology.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Mary Azbill, Indiana State Department of Health; Chris Sheets, Indiana State Police; Chris Cotterill, Indiana office of Technology; Sherry Beck, Indiana State Police; Fred Sargeson, AccessIndiana; Doug Shelton, Indiana State Police; Professional Licensing Agency, U.S. Bureau of Labor Statistics, *Indiana Handbook of Taxes, Revenues, and Appropriations*.

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